

**§ 576.102 Voluntary Separation Incentive Payment implementation plans.**

(a) In accordance with section 3522(b) of title 5, United States Code, a plan submitted by the head of an agency, or his or her specific designee, must include:

(1) Identification of the specific positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational series, grade level and any other factors related to the position;

(2) A description of the categories of employees who will be offered incentives identified by organizational unit, geographic location, occupational series, grade level and any other factors, such as skills, knowledge, or retirement eligibility (as discussed in implementing guidance);

(3) The time period during which incentives may be paid;

(4) The number and maximum amounts of Voluntary Separation Incentive Payments to be offered;

(5) A description of how the agency will operate without the eliminated or restructured positions and functions;

(6) A proposed organizational chart displaying the expected changes in the agency's organizational structure after the agency has completed the incentive payments;

(7) A short explanation of how Voluntary Early Retirement Authority will be used in conjunction with separation incentives, if the agency has requested, or will request, that authority; and

(8) A description of how Voluntary Separation Incentives offered under another statutory authority are being used, if the agency is offering incentives under any other statutory authority.

(b) When submitting a plan to OPM, the agency may submit either:

(1) A specific Voluntary Separation Incentive Payment implementation plan outlining the intended use of the incentive payments, or

(2) The agency's human capital plan, which outlines the intended use of the incentive payments and the expected changes in the agency's organizational structure after the agency has completed the incentive payments. If the human capital plan is submitted, it

must include the information specified in paragraph (a) of this section.

(c) OPM will consult with the Office of Management and Budget regarding the plan and any subsequent modifications, and will notify the agency head in writing when the plan is approved. The review may include a consideration of costs and benefits associated with using the authority. If there are questions concerning the agency's plan, OPM reserves the right to contact the agency, inform agency staff of its concerns, and require that the agency revise the plan to bring it into conformance with these regulations. The agency must obtain OPM approval before offering incentives under this authority.

**§ 576.103 Offering Voluntary Separation Incentive Payments to employees.**

(a) Agencies may make offers of Voluntary Separation Incentive Payments to employees who agree to voluntarily separate by resignation, early retirement, or optional retirement.

(b) Each time an agency with authority to offer Voluntary Separation Incentive Payments establishes a window period for acceptance of Voluntary Separation Incentive applications, it may limit offers to its employees based on an established opening and closing date or the acceptance of a specified number of applications. However, at the time of the offer, the agency must notify its employees that it retains the right to limit the number of Voluntary Separation Incentive Payment offers by use of a specific closing date or by receipt of a specified number of applications.

(c) An agency's downsizing and/or reshaping strategy may change, necessitating a change in the offer notice to employees. If the amended notice includes a revised closing date, or a revised number of applications to be accepted, the new date or number of applications must be announced to the same group of employees included in the original announcement. If a new or separate notice includes a new window period with a new closing date, or a new instance of a specific number of applications to be accepted, the new

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window period or number of applications to be accepted may be announced to a different group of employees as long as the new group is covered by the approved Voluntary Separation Incentive Payment authority.

(d) Section 4311 of title 38, United States Code, requires that, for all practical purposes, agencies treat employees on military duty as though they were still on the job. Further, employees are not to be disadvantaged because of their military duty. In accordance with these provisions, employees on military duty who would otherwise be eligible for an offer of a Voluntary Separation Incentive Payment will have 30 days following their return to duty to either accept or reject an offer of a Voluntary Separation Incentive Payment. This is true even if the Voluntary Separation Incentive Payment authority provided by OPM has expired.

(e) An employee may separate from the service voluntarily, with a Voluntary Separation Incentive Payment, if, on the date of separation, the employee:

(1) Is serving in a position covered by a Voluntary Separation Incentive Payment offer; and

(2) Meets the definition of employee discussed in 5 U.S.C. 3521.

(f) Agencies are responsible for ensuring that employees are not coerced into accepting a Voluntary Separation Incentive Payment. If an agency finds any instances of coercion, it must take appropriate corrective action.

(g) An agency may not offer Voluntary Separation Incentive Payments beyond the stated expiration date of an authority or assign an effective date for a Voluntary Separation Incentive Payment that is beyond the time period for paying a Voluntary Separation Incentive Payment that was stated in the agency's approved Voluntary Separation Incentive Payment plan.

(h) An agency may not offer Voluntary Separation Incentive Payments to employees who are outside the scope of the Voluntary Separation Incentive Payment authority approved by OPM.

(i) OPM may amend, limit, or terminate Voluntary Separation Incentive Payment authority if it determines that the agency is no longer under-

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going the condition(s) that formed the basis for its approval or to ensure that the law and regulations governing Voluntary Separation Incentive Payments, including the Voluntary Separation Incentive Payment usage reporting requirements, are being properly followed.

### § 576.104 Additional agency requirements.

(a) After OPM approves an agency's plan for Voluntary Separation Incentive Payments, the agency is required to immediately notify OPM of any subsequent changes in the conditions that served as the basis for the approval of the Voluntary Separation Incentive Payment authority.

(b) Agencies are required to provide OPM with interim and final Voluntary Separation Incentive Payment reports, as covered in OPM's approval letter to the agency. OPM may suspend or cancel a Voluntary Separation Incentive Payment authority if the agency is not in compliance with the reporting requirements or reporting schedule specified in OPM's Voluntary Separation Incentive Payment authority approval letter.

### § 576.105 Existing Voluntary Separation Incentive Payment authorities.

As provided in section 1313(a)(3) of Public Law 107–296, any agency exercising Voluntary Separation Incentive authority in effect on January 24, 2003, may continue to offer Voluntary Separation Incentives consistent with that authority until that authority expires. An agency that is eligible to offer Voluntary Separation Incentive Payments under this authority and under any other statutory authority may choose which authority it wishes to use, or offer incentives under both.

## Subpart B—Waiver of Repayment of Voluntary Separation Incentive Payments

### § 576.201 Definitions.

*'Employment'* means employment with the Government of the United States, including employment under a personal